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APR 27 2005

OFFICE OF PETITIONS

In re Application of :
Solomon Edlin :
Application No. 09/871,383 : ON PETITION
Filed: May 31, 2001 :
For: BIPOLAR STATIC INDUCTION :
TRANSISTOR (VARIANTS) :

This is a decision on the petition under 37 CFR 1.137(b), filed October 22, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed September 11, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. A two (2) month extensions of time under the provisions of 37 CFR 1.136(a) were obtained.¹ Accordingly, the above-identified application became abandoned on February 12, 2002.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set

¹ The fee for a three (3) month extensions of time was \$460 and petitioner paid \$330.

forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

As to item (2), the fee for a petition to revive under the unintentional standard of 37 CFR 1.137(b) for a small entity is \$685. There is no indication that petitioner has submitted any fee for a petition to revive. A review of the Office Financial records show that petitioner has tendered two separate checks for the late filing fee. The second check of \$65 is unnecessary. In addition, petitioner requested for a three (3) month extensions of time. Since this application became abandoned on February 12, 2002, extension of time under 37 CFR 1.136 must be filed **prior** to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the \$475 extension of time submitted on September 14, 2004 and November 1, 2004 was subsequent to the maximum extendable period for reply. Therefore, the Office has applied \$50 toward to the required processing for a returned check, \$490 for the petition fee, which leaves an outstanding balance of \$195. Accordingly, a consideration on the merits of the present petition cannot be made until the \$195 fee deficiency is submitted to the Office.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
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By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition;

however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.



Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: EDLIN SOLOMON
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